



DEPARTMENT OF EDUCATION

Notice Inviting Postsecondary Educational Institutions to Participate in Experiments Under the Experimental Sites Initiative; Federal Student Financial Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites postsecondary educational institutions (institutions) that currently participate in the Second Chance Pell experiment to apply to participate in a revised Second Chance Pell institution-based experiment under the Experimental Sites Initiative (ESI).

DATES: Letters of application to participate in the revised experiment described in this notice must be received by the Department of Education (the Department) no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Letters of interest received after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] may still, at the discretion of the Secretary, be considered for participation.

ADDRESSES: Letters of interest must be submitted by electronic mail to the following email address: experimentalsites@ed.gov. For formats and other required information, see "Instructions for Submitting

Letters of Interest" under the SUPPLEMENTARY INFORMATION section of this notice.

FOR FURTHER INFORMATION CONTACT: Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue, SW, Washington, DC 20202. Telephone: (202) 803-1502. Email: Carolyn.Rose@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Instructions for Submitting Letters of Interest: Letters of interest should take the form of an Adobe Portable Document Format (PDF) attachment to an email message sent to the email address provided in the ADDRESSES section of this notice. The subject line of the email should read "ESI 2023--Pell for Students Who Are Incarcerated." The text of the email should include the name and address of the institution. The letter of interest should be on institutional letterhead and be signed by the institution's financial aid administrator. The letter of interest must include the institution's official name and the Department's Office of Postsecondary Education Identification (OPEID) number, the name of a contact person at the institution, including a mailing address, email address, and telephone number, as well as the name and address of the correctional facility(ies) with which the

institution partners. Please include in the letter a listing of the academic programs that the institution is offering under the current experiment and that the institution expects to include in the revised experiment. For each of those programs, provide an estimate of the number of participating students. We understand that institutions' academic program listings and the actual number of students who participate may vary from the information submitted in the letter.

Background: Under the ESI, the Secretary may waive certain statutory and regulatory requirements under title IV of the Higher Education Act of 1965, as amended (HEA), to allow a limited number of institutions to test alternative methods for administering the title IV HEA programs. The alternative methods permitted under the ESI facilitate institutional efforts to test innovative practices that improve student outcomes and the delivery of services.

The Second Chance Pell experiment was established in 2015 and provides need-based Pell Grants to incarcerated individuals to allow them to participate in eligible postsecondary programs. The experiment has expanded to over 200 programs around the country. With the passage of the FAFSA Simplification Act in 2020, Congress further expanded the ability to serve confined or incarcerated individuals by reinstating Pell Grant eligibility for otherwise-eligible confined or incarcerated individuals

enrolled in eligible prison education programs (PEPs) beginning July 1, 2023.

The revised Second Chance Pell experiment will provide new waivers to allow current Second Chance Pell institutions to continue serving their students after July 1, 2023 while also continuing to allow the Department to learn more about the challenges schools face when implementing the new regulations. This will give participating institutions time to seek Department approval of their PEPs (as defined under the new regulations in 34 CFR part 668 subpart P) and avoid interrupting the educational opportunities of students currently enrolled in approved programs under the experiment.

Specifically, the revised experiment will allow current participating institutions to continue offering their current programs to confined or incarcerated individuals for up to 3 award years while they work through the application and approval process for the PEP(s) they wish to offer under the new provisions. Through the revised experiment, the Department will also evaluate the impact and effectiveness of the new regulations as institutions transition to PEP.

THE REVISED EXPERIMENT

Description: This revised experiment will waive the statutory provision in new HEA section 484(t)(3), requiring that a student confined or incarcerated in a Federal or

State penal institution be enrolled in an eligible PEP (as defined in subpart P of 34 CFR part 668) in order to receive a Pell Grant. The experiment will allow some otherwise-eligible students who are confined or incarcerated in Federal or State penal institutions to receive a Pell Grant to help cover the costs of their participation in a postsecondary education and training program offered by a participating postsecondary educational institution while the institution works to meet the new PEP requirements. This experiment only waives specific requirements of the title IV, HEA programs. Additional restrictions or requirements associated with postsecondary study imposed by postsecondary or correctional institutions may still apply, and students' eligibility to receive aid from Federal Pell Grants under this experiment would remain subject to those requirements.

Under the revised experiment, the education and training programs offered by the postsecondary institution must continue to meet all title IV, HEA program eligibility requirements. While the program must be credit-bearing and result in a certificate or degree, up to 1 full year of remedial coursework is allowed for students in need of academic support.

Institutional Requirements: The experiment will require that participating institutions:

- Partner with their current Federal or State correctional facility(ies) to offer one or more title IV, HEA eligible academic program(s) to incarcerated students.
- Work with the partnering correctional facilities to encourage interested students to submit a FAFSA;
- Only enroll students in postsecondary education and training programs that prepare them for occupations from which they are not legally barred from entering due to restrictions on formerly incarcerated individuals obtaining any necessary licenses or certifications for those occupations in the State in which the partnering facility(ies) are located;
- Disclose to interested students and to the Department information about the options available for incarcerated students to complete any remaining program requirements post-release;
- As appropriate, offer students the opportunity to continue their enrollment in the academic program if the student is transferred to another correctional facility or released from prison prior to program completion;
- Inform students of the academic and financial options available if they are not able to complete the academic program while incarcerated. This includes explaining how the students can continue in the

program after release, transfer credits earned in the program to another program offered by the institution, or transfer credits earned in the program to another postsecondary institution;

- In partnership with Federal or State correctional facilities, provide academic and career guidance, as well as transition services, to incarcerated students to support successful reentry.
- Use the Pell Grant funds made available to eligible students through this experiment to supplement, not supplant, existing investments in postsecondary prison-based education programs by either the postsecondary institution, the correctional facility, or outside sources;
- Report all correctional facilities where the institution offers 50 percent or more of an educational program as an additional location regardless of whether students enrolled receive instruction in-person or through distance education at that location; and
- Actively seek PEP approval under the new regulations for programs offered under the revised experiment or prepare a plan to wind down programs it does not plan to continue under the new provisions within three years.

An institution may continue to enroll students in existing programs as long as it continues to demonstrate progress toward compliance with the new requirements. However, an institution that participates in the revised experiment may not expand beyond the correctional facilities with which it currently partners or beyond the programs it offers already offer under the experiment.

In addition, programs under the experiment are subject to the following requirements:

- Enrollment cap for incarcerated students (34 CFR 600.7(c)). Institutions that are granted a waiver prior to July 1, 2023, that permits more than 25 percent of the institution's regular students to be confined or incarcerated will continue to receive the waiver and will not need to reapply under the new provisions outlined in 34 CFR 600.7(c). However, no more than 50 percent of the institution's regular students may be confined or incarcerated for the duration of the experiment.¹ Institutions that have not been granted a waiver to exceed the 25 percent confined or incarcerated student enrollment threshold prior to July 1, 2023, will not be eligible to apply

¹Some institutions in the current Second Chance Pell experiment have been granted a waiver to exceed the 25 percent enrollment threshold for incarcerated students. Although these institutions are permitted to have up to 100 percent incarcerated student enrollment, they will be limited to 50 percent incarcerated student enrollment for the duration of the revised experiment. However, institutions that are chartered for the explicit purpose of educating confined or incarcerated individuals will not be subject to the incarcerated student cap.

for a waiver of the limitation on their enrollment of incarcerated students for programs under the experiment. As a result, no more than 25 percent of the institution's regular students may be confined or incarcerated for the duration of the experiment. Such institutions may apply for a waiver under these provisions once the Department has approved at least one of the institution's PEPs under the new regulatory requirements in subpart P of 34 CFR part 668.

- Consumer information requirements (34 CFR 668.43(a)(5)(vi)). If a program under the experiment is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation (as described in 34 CFR 668.236(a)(7) and (8)), the institution must disclose information to students regarding whether that occupation typically involves State or Federal prohibitions of the licensure or employment of formerly incarcerated individuals in any other State for which the institution has made a determination about State prohibitions on the licensure or certification of formerly incarcerated individuals. This aligns the consumer information requirements for confined or incarcerated students enrolled in programs under the experiment with the

requirements for all PEPs as described under 34 CFR 668.43(a)(5)(vi), effective on July 1, 2023.

- Cost of attendance for programs under the experiment.

For experiment purposes, no Federal Pell Grant can exceed the cost of attendance (as defined in section 472 of the HEA) at the institution at which that student is in attendance. If an institution determines that the amount of a Federal Pell Grant for that student exceeds the cost of attendance for that year, the amount of the Federal Pell Grant must be reduced until the Federal Pell Grant does not exceed the cost of attendance at such institution and does not result in a title IV credit balance under 34 CFR 668.164(h). Further, if the student's Pell Grant, combined with any other financial assistance, exceeds the student's cost of attendance, the financial assistance other than the Pell Grant must be reduced by the amount of the total financial assistance that exceeds the student's cost of attendance. In addition, if the student's other financial assistance cannot be reduced, the student's Pell Grant must be reduced by the amount that the student's total financial assistance exceeds the student's cost of attendance. This aligns the cost of attendance requirements for confined or incarcerated individuals enrolled in programs under the experiment with the

requirements for all PEPs as described under 34 CFR 690.62 (b) .

In addition, participating institutions must reach specific milestones that demonstrate progress toward developing approved PEP(s) .

Milestones: Participating institutions must meet the following milestones by the end of each award year of the experiment:

2023-24 award year: By June 30, 2024, the participating institution must have a signed written agreement with its correctional partner(s) to comply with the new requirements outlined in subpart P of 34 CFR part 668. The agreement must be submitted to the Department and include, at a minimum, the oversight entity's permission to offer the PEP at the correctional facility, and assurances that the oversight entity will provide the following: the best interest determination for the proposed program within the first 2 years of the program's approval, and transfer and release data to the institution during the existence of the PEP.

2024-25 award year: By June 30, 2025, the institution must have completed several specific steps toward submission of its PEP application to the Department. Specifically, by June 30, 2025, the institution must be able to attest (and demonstrate if requested) that it has, at a minimum:

- Determined the programs(s) to be offered under the new provisions. The institution must be able to provide a description of the proposed program(s), including the educational credential offered (degree level or certificate) and the field of study as required by 34 CFR 668.238(b) (1);
- Received approval from the oversight entity to offer the program(s) at the correctional facility;
- Received accreditor approval to offer at least one PEP; and
- Informed the Department of the date on which it plans to submit the PEP application to the Department (the date must be on or before January 1, 2026).

As part of this 2024-25 award year milestone, the institution must also provide the status of the following additional PEP requirements and the date they anticipate submitting this information to the Department:

- The methodology, including thresholds, benchmarks, standards, metrics, data, and other information the oversight entity will use in approving the prison education program and how all of the information was/will be collected;
- Information about the types of services (to be) offered to admitted students, including orientation, tutoring, academic and career advising, and reentry counseling;

- The status of all programs currently offered under the experiment and the date on which those programs will be reported to the Department. If the institution plans to offer programs beyond the first program at the first two additional locations, specific reporting requirements outlined in 34 CFR 600.21(a) will apply. The institution must prepare all programs offered under the experiment, that it plans to continue after the experiment ends, to be in compliance with the new PEP provisions as outlined in 34 CFR 668.238(c). Any program beyond the first program at the first two additional locations must be reported to the Department prior to June 30, 2026, or students attending those programs will not be eligible for Pell Grants after the conclusion of the experiment. The Department will perform ongoing monitoring during the experiment to ensure that participating institutions meet these requirements. The Department will monitor participating institutions to ensure they are making progress toward developing a PEP that will be submitted for consideration under subpart P of 34 CFR part 668. The Department will also monitor all other program(s) the institution is offering under the experiment to ensure the institution has a plan to report those programs pursuant to 34 CFR 668.238(c) so

they may continue offering Pell Grants to students enrolled in those programs after the experiment ends.

2025-26 award year: Participating institutions must submit the PEPs to the Department for approval by January 1, 2026, and must have PEP programs approved before July 1, 2026, to continue offering Pell Grants to enrolled students.

Statutory and Regulatory Modifications: Under this experiment, the Secretary will modify certain statutory and regulatory provisions.

By agreeing to the alternative procedures and requirements for this revised experiment, the institution will be exempt from the following new statutory and regulatory provisions, either in whole or to the extent noted:

- HEA section 484(t)(3) *Confined or incarcerated individuals* as in effect beginning July 1, 2023. A student confined or incarcerated in a Federal or State penal institution need not be enrolled in an eligible PEP in order to receive a Pell Grant. However, confined or incarcerated students must be enrolled in title IV eligible programs that are part of the experiment in order to receive Pell Grant funds.
- 34 CFR 668.32(c)(2)(ii) *Student eligibility*. Confined or incarcerated students enrolled at participating institutions need not be enrolled in an eligible PEP

to receive Pell Grant funds. Students are required to be enrolled in a title IV eligible program.

- 34 CFR 668, subpart P *Prison education program requirements* (34 CFR 668.236 through 34 CFR 668.241).

Participating institutions are exempt from all of subpart P of 34 CFR part 668 with respect to their existing Second Chance Pell programs, since those programs are not required to be eligible PEPs.

However, participating institutions must only enroll incarcerated students in title IV eligible programs.

All other provisions and regulations of the title IV HEA student assistance programs will remain in effect.

Reporting and Evaluation: On an annual basis, participating institutions will be required to upload an Excel spreadsheet that will be available in the ESI Reporting Tool in the Common Origination & Disbursement (COD) website (or its successor system) to report information about students who submit a FAFSA for enrollment in programs offered by the institution that are included in the experiment. The spreadsheet will collect programmatic and student information, including:

- Identifying information (e.g., Social Security number, last name) for students receiving Pell Grant funds under the experiment;

- The name of the program and Classification of Instructional Programs (CIP) code in which the student enrolled;
- The number of postsecondary credits the student attempted, and the number earned;
- Indicators of academic progress, including program completion; and
- Other experiment-specific information as determined by the Department.

In addition to the annual reporting, participating institutions will be required to upload, on a monthly basis, the Excel spreadsheet in COD (or its successor system) to provide the Department with:

- Identifying information for students receiving Pell Grant funds under the experiment; and
- The status of the institution's development of all PEPs it plans to offer under the new provisions.

Participating institutions will also be required to complete annual surveys collecting information about:

- The name of each program offered under the experiment, the name and address of the facility(ies) at which the program is being offered, and the oversight entity responsible for the facility;
- The progress that the institution has made toward complying with the new statutory and regulatory requirements;

- The postsecondary instruction (if any) provided to incarcerated population(s) prior to participating in the experiment;
- The institution's arrangement(s) with correctional facilities and oversight entities and any unforeseen challenges;
- Terms of the postsecondary institution's arrangements with correctional facilities and oversight entities (e.g., tuition and fees, caps on credits earned, support services provided, instructional delivery methods, and faculty characteristics);
- Challenges encountered by the institution as it develops a PEP to comply with the new provisions, and the specific solutions the institution put in place to respond to those challenges;
- Benefits experienced by the institution or its students as a PEP complying with the new provisions is put in place; and
- Balanced and thoughtful reflection of what the institution and incarcerated students gain and lose with the adoption of the new PEP provisions that are put in place.

The experiment will be evaluated using information the institution provides to the Department, as well as any other information available to the Department. The Department seeks to evaluate specific challenges

encountered by the institution while administering the experiment, including:

- Partnering with correctional facilities to offer postsecondary education to incarcerated students;
- Incarcerated students' ability to complete the FAFSA;
- The verification process for incarcerated students;
- The program approval process for PEPs under the new provisions;
- The process for an oversight entity to make the determination that program(s) being developed under the new provisions are operating in the best interest of students; and
- Challenges that the institution encountered while obtaining programmatic accreditation for PEPs and how they were resolved.

The Department also intends to evaluate how institutions successfully implemented the new provisions, including the PEP approval process and metrics used by the oversight entity to determine if the program is operating in the best interest of students.

The Department will finalize the specific evaluation and reporting requirements prior to the start of the experiment, in consultation with the Department's Institute of Education Sciences. An information collection will be made available for public comment regarding further information gathering connected with this notice.

Application and Selection: The Department will make its institutional selections for the revised experiment based on the following factors:

1. Only institutions that are approved and actively participating in the Second Chance Pell experiment as of June 30, 2023, may participate in the revised experiment.
2. An institution interested in participating in the revised experiment must:
 - a. Notify the Department of its desire to participate in the revised experiment by submitting a letter of interest;
 - b. Agree to make efforts to reach the specific milestones that demonstrate progress toward developing approved PEP(s), as outlined in the Institutional Requirements section of this notice; and
 - c. Be in compliance with the reporting requirements under the current experiment as outlined in the Program Participation Agreement (PPA) Amendment.
3. The institution must be in compliance with title IV HEA regulatory and statutory requirements, including administrative capability and financial responsibility; and
4. The institution must adequately describe in its letter of interest how it will comply with the requirements

of the revised experiment outlined in this notice, including its plan and the date it expects to comply with the new PEP provisions in subpart P of 34 CFR part 668.

Accessible Format: On request to the person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Program Authority: 20 U.S.C. 1094a(b) .

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[FR Doc. 2023-08162 Filed: 4/17/2023 8:45 am; Publication Date: 4/18/2023]